

Assembly Bill No. 1141

CHAPTER 292

An act to amend Sections 11055, 11057, and 11377 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 25, 2008. Filed with
Secretary of State September 25, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1141, Anderson. Controlled substances.

Existing law classifies certain controlled substances into designated schedules. Under existing law, unlawful possession of specified controlled substances is either a misdemeanor or a felony.

This bill would add Khat and Cathinone, as specified, to the controlled substances listed in Schedule II and would also add Cathine, as specified, to the controlled substances listed in Schedule IV. This bill would also provide that unlawful possession of Khat, Cathinone, and Cathine is a misdemeanor.

Because this bill would expand the definition of existing crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium, opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

- (C) Opium fluid extracts.
- (D) Powdered opium.
- (E) Granulated opium.
- (F) Tincture of opium.
- (G) Apomorphine.
- (H) Codeine.
- (I) Ethylmorphine.
- (J) Hydrocodone.
- (K) Hydromorphone.
- (L) Metopon.
- (M) Morphine.
- (N) Oxycodone.
- (O) Oxymorphone.
- (P) Thebaine.
- (2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.
- (5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).
- (6) Cocaine, except as specified in Section 11054.
- (7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.
- (c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
 - (1) Alfentanyl.
 - (2) Alphaprodine.
 - (3) Anileridine.
 - (4) Bezitramide.
 - (5) Bulk dextropropoxyphene (nondosage forms).
 - (6) Dihydrocodeine.
 - (7) Diphenoxylate.
 - (8) Fentanyl.
 - (9) Isomethadone.
 - (10) Levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM. This substance is authorized for the treatment of narcotic addicts under federal law (see Part 291 (commencing with Section 291.501) and Part 1308 (commencing with Section 1308.01) of Title 21 of the Code of Federal Regulations).
 - (11) Levomethorphan.

- (12) Levorphanol.
- (13) Metazocine.
- (14) Methadone.
- (15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
- (16) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
- (17) Pethidine (meperidine).
- (18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- (19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
- (20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- (21) Phenazocine.
- (22) Piminodine.
- (23) Racemethorphan.
- (24) Racemorphan.
- (25) Sufentanyl.
- (d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - (2) Methamphetamine, its salts, isomers, and salts of its isomers.
 - (3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.
 - (4) N-Ethylmethamphetamine (N-ethyl, N-methylamphetamine), its salts, isomers, and salts of its isomers.
 - (5) Phenmetrazine and its salts.
 - (6) Methylphenidate.
 - (7) Khat, which includes all parts of the plant classified botanically as *Catha Edulis*, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.
 - (8) Cathinone (also known as alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone).
- (e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Amobarbital.
 - (2) Pentobarbital.
 - (3) Phencyclidines, including the following:
 - (A) 1-(1-phenylcyclohexyl) piperidine (PCP).
 - (B) 1-(1-phenylcyclohexyl) morpholine (PCM).

(C) Any analog of phencyclidine which is added by the Attorney General by regulation pursuant to this paragraph.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(5) Glutethimide.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

SEC. 2. Section 11057 of the Health and Safety Code is amended to read:

11057. (a) The controlled substances listed in this section are included in Schedule IV.

(b) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(3) Butorphanol.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam.
- (2) Barbitol.
- (3) Chloral betaine.
- (4) Chloral hydrate.
- (5) Chlordiazepoxide.
- (6) Clobazam.
- (7) Clonazepam.
- (8) Clorazepate.
- (9) Diazepam.
- (10) Estazolam.
- (11) Ethchlorvynol.
- (12) Ethinamate.
- (13) Flunitrazepam.
- (14) Flurazepam.
- (15) Halazepam.
- (16) Lorazepam.
- (17) Mebutamate.
- (18) Meprobamate.
- (19) Methohexital.
- (20) Methylphenobarbital (Mephobarbital).
- (21) Midazolam.
- (22) Nitrazepam.
- (23) Oxazepam.
- (24) Paraldehyde.
- (25) Petrichoral.
- (26) Phenobarbital.
- (27) Prazepam.
- (28) Quazepam.
- (29) Temazepam.
- (30) Triazolam.
- (31) Zaleplon.
- (32) Zolpidem.

(e) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers, whenever the existence of those salts, isomers, and salts of isomers is possible:

- (1) Fenfluramine.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers is possible within the specific chemical designation:

- (1) Diethylpropion.
- (2) Mazindol.
- (3) Modafinil.

- (4) Phentermine.
- (5) Pemoline (including organometallic complexes and chelates thereof).
- (6) Pipradrol.
- (7) SPA ((-)-1-dimethylamino-1,2-diphenylethane).
- (8) Cathine ((+)-norpseudoephedrine).
- (g) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of pentazocine, including its salts.

SEC. 3. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.

(b) (1) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

(2) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (g) of Section 11056 is guilty of a misdemeanor.

(3) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in paragraph (7) or (8) of subdivision (d) of Section 11055 is guilty of a misdemeanor.

(4) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in paragraph (8) of subdivision (f) of Section 11057 is guilty of a misdemeanor.

(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because

this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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